

CITY OF TIGARD, OREGON

ORDINANCE NO. 02-09

AN ORDINANCE REPEALING CHAPTER 2.24 ("CRIMINAL PROCEDURE") OF THE TIGARD MUNICIPAL CODE

WHEREAS, Chapter 2.24 of the Tigard Municipal Code establishes procedures for criminal cases, including filing complaints, imposing costs, issuing warrants and citations, entering pleas and conducting trials in municipal court; and

WHEREAS, staff review has shown that the same mandatory rights and procedures are prescribed in detail by Chapters 133, 135 and 156 of the Oregon Revised Statutes; and

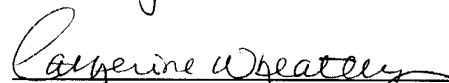
WHEREAS, repeal of this section makes it unnecessary to revise the Code as the legislature amends the Oregon statutes that govern criminal procedures.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: Chapter 2.24 of the Tigard Municipal Code (Exhibit A) is hereby repealed in its entirety.

SECTION 2: This ordinance shall be effective 30 days after its passage by the Council, signature by the Mayor, and posting by the City Recorder.

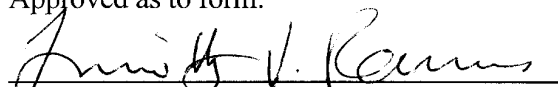
PASSED: By Unanimous vote of all Council members present after being read by number and title only, this 12th day of February, 2002.


Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this 12th day of February, 2002.


James E. Griffith, Mayor

Approved as to form:


City Attorney

February 12, 2002
Date

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EXHIBIT A

Chapter 2.24 CRIMINAL PROCEDURE.

Sections:

- 2.24.010 Filing Complaint--Commencement Of Action.**
- 2.24.020 Complaint Deemed Indictment.**
- 2.24.030 Costs In Criminal Cases--Indigent Defense Account.**
- 2.24.040 Warrant Of Arrest--Generally.**
- 2.24.050 Warrant Of Arrest--Execution And Return.**
- 2.24.060 Citations To Misdemeanants.**
- 2.24.070 Reading Complaint To Defendant--Defendant To Plead.**
- 2.24.080 Right Of Counsel.**
- 2.24.090 Defendant's Plea--Refusal To Plead.**
- 2.24.100 Trial By Court.**
- 2.24.110 State Statutes To Govern.**

2.24.010 Filing Complaint--Commencement Of Action.

In Municipal Court, a criminal action is commenced by the filing of the complaint therein, verified by the oath of the person commencing the action, who is thereafter known as the complainant. (Ord. 85-26 §1(part), 1985).

2.24.020 Complaint Deemed Indictment.

The complaint shall be deemed an indictment within the meaning of ORS 132.510 to 132.570, 132.590, 132.610 to 132.690, 132.710 and 132.720, which sections prescribe what is sufficient to be stated in such pleading and the form of stating it, except that the sufficiency of a uniform traffic citation shall not be controlled by these sections. (Ord. 85-26 §1(part), 1985).

2.24.030 Costs In Criminal Cases--Indigent Defense Account.

(a) The Municipal Judge shall assess five dollars as and for costs in every case of finding of guilt and in each instance of bail forfeiture in all cases brought before the Court. In every case of a finding of guilty by a jury, the Municipal Judge shall assess sixty dollars minimum as and for costs.

(b) All costs collected shall be paid over to the Finance Director. There is established in the general fund of the City, a special account designated "indigent defense." The Finance Director shall credit all costs collected to such designated "indigent defense account." The sum of five hundred dollars shall be maintained for indigent defense purposes. Any overplus of funds so collected shall be credited to the general fund of the City. (Ord. 85-26 §1(part), 1985).

2.24.040 Warrant Of Arrest--Generally.

Upon the filing of the complaint, the Municipal Judge shall issue a warrant of arrest for the defendant named therein. (Ord. 85-26 §1(part), 1985).

2.24.050 Warrant Of Arrest--Execution And Return.

A warrant of arrest in a criminal action in a Municipal Court is issued, directed and executed in all respects as the warrant mentioned in ORS 133.140, except that it shall be made returnable only before the Judge who issues it. (Ord. 85-26 §1(part), 1985).

2.24.060 Citations To Misdemeanants.

(a) City police officers may, if an arrest is made without a warrant, or if a person is arrested by a private citizen and is turned over to a peace officer, or if the Municipal Judge before whom a

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complaint is filed authorizes it, issue a citation in lieu of continuing custody in those cases in the form and manner authorized by ORS 133.045 to 133.080, inclusive.

(b) If any person wilfully fails to appear before the Municipal Court pursuant to a citation issued and served under the authority of ORS 133.045 to 133.080, inclusive, and subsection (a) of this section, and a complaint is filed, he shall be deemed guilty of a violation of Chapters 2.16 through 2.26 and a Class A misdemeanor. (Ord. 85-26 §1(part), 1985).

2.24.070 Reading Complaint To Defendant--Defendant To Plead.

When the defendant appears or is brought before the Municipal Judge, the complaint shall be read to him and he shall plead thereto at that time or within such additional time as the Municipal Judge may grant for entry of plea. (Ord. 85-26 §1(part), 1985).

2.24.080 Right Of Counsel.

(1) When a defendant who is charged with violation of a municipal ordinance for which a jail sentence may be imposed, appears before the Municipal Judge without counsel, he shall be informed by the Court that it is his right to have counsel before any further proceedings are had and shall be asked if he desires the aid of counsel.

(2) The Court shall allow the defendant a reasonable time to obtain counsel and shall adjourn the proceeding for that purpose or shall, in accordance with subsection (3) of this section, appoint counsel to represent him unless the defendant waives counsel and the Court approves the waiver.

(3) Counsel for a defendant shall be appointed by the Municipal Court if:

(A) The defendant is charged with a violation of a municipal ordinance for which a jail sentence may be imposed; and

(B) The defendant requests the aid of counsel; and

(C) The defendant states under oath, in writing, his financial circumstances showing lack of ability to obtain counsel, and provides such other information required by the Court as to his inability to obtain counsel; and

(D) The Court determines that the defendant is without means wherewith to obtain counsel.

(4) Unless otherwise ordered by the Municipal Court, the counsel appointed under this section shall continue to represent the defendant on appeal to the District Court. The Court may substitute one appointed counsel for another at any stage of the proceedings when the interest of justice requires such substitution.

(5) If at any time after the appointment of counsel the Court finds that the defendant is financially able to obtain counsel or to make partial payment for the services of counsel, the Court may terminate the appointment of counsel or may require such partial payment. If at any time during the proceedings the Court finds that the defendant is financially unable to pay counsel, the Court may appoint counsel to represent defendant as provided in this section.

(6) Counsel appointed pursuant to subsection (3) of this section shall, after the Court so orders, be paid fees by the City for the services rendered in conducting the defense, as follows:

(A) When a plea of guilty is entered prior to trial on merits \$ 75.00

(B) When a plea of not guilty is entered

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and adversary trial on the merits is
conducted 75.00

(C) When defendant is charged with
more than one offense for which jail sentence may
be imposed and defendant is tried on all charges
concurrently 75.00

(D) After an appeal and trial on the
merits is had in the District Court 75.00
(Ord. 86-30 §§1 and 2, 1986; Ord. 85-26 §1(part),
1985).

2.24.090 Defendant's Plea--Refusal To Plead.

The defendant may plead the same pleas as
upon an indictment. His plea shall be oral and
entered in the docket. If the defendant refuses to
plead, the Municipal Judge shall enter the fact,
together with the plea of not guilty, on his behalf.
(Ord. 85-26 §1(part), 1985).

2.24.100 Trial By Court.

Upon a plea other than a plea of guilty, if the
defendant does not demand a trial by jury in
accordance with Section 2.20.010, the Municipal
Judge shall proceed to try the issue unless
continued for cause. (Ord. 85-26 §1(part), 1985).

2.24.110 State Statutes To Govern.

When not governed by Chapters 2.16 through
2.26 or by the City Charter, all proceedings prior
to judgment with respect to criminal actions in
Municipal Court for the violation of a City
ordinance shall be governed by applicable general
rules of the state governing Justice of the Peace
and justice courts. (Ord. 85-26 §1(part), 1985).■